IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.11.2005

Coram:

The Hon'ble Mr.Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.K.KRISHNAN

W.P.No.6944 of 2001 to W.P.No.6949 of 2001,
W.P.No.15586 and W.P.No.16586 of 2001

1. P.V.Dharmaraj
2. S.Pitchai
3. N.Srinivasan
4. N.Ganesan
5. P.Siddhaian
6. E.M.R.Mendez
7. A.R.Ramdoss
8. P.N.Krishnan
9. S.Vasudevan ... Petitioners in W.P.No.6944 of 2001

1. C.S.Narayanan
2. T.Gurusamy
3. R.Srinivasan ... Petitioners in W.P.No.6945 of 2001

1. K.Sreenivasan ... Petitioner in W.P.No.6946 of 2001

1. V.Vedandachari ...Petitioner in W.P.No.6947 of 2001

1. K.Ramamoorthy
2. S.Nadimuthu
3. K.Sukumara Panicker
4. S.Rajammal
5. S.Govinda Rao
6. K.S.Venkataraman ...Petitioners in W.P.No.6948 of 2001

1. Henry Arnold Lewis ...Petitioner in W.P.No.6949 of 2001

1. R.Suganthi
2. R.Sayeeraman
3. R.Vijaya ... Petitioners in W.P.No.15586 of 2001

1. C.V.Srinivasan
2. A.Radhakrishnaiah ... Petitioners in W.P.No.16586 of 2001

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vs.

1. Union of India
   represented by its Chairman
   Railway Board, Rail Bhavan,
   New Delhi.

2. The General Manager
   Southern Railway,
   Park Town,
   Madras - 600 003.

3. The Financial Adviser and
   Chief Accounts Officer,
   Southern Railway,
   Headquarters Office,
   Park Town, Chennai - 600 003.

4. Central Administrative Tribunal
   represented by its Registrar
   Chennai - 104. .. Respondents in all the above
   writ petitions.

PRAYER: Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for records of the Central Administrative Tribunal, 4th respondent herein in O.A.No.430/97 dated 18.03.98, quash the same in so far as it restricts the arrears for a period of one year from the date of filing of the application and consequently direct the respondents 1 to 3 to pay the entire arrears to the petitioners with effect from the date of promotion.

For Petitioners : Mr.Karthik Rajan
for Mr.Vijay Narayan

For Respondents : Mr.M.Sekar
for Railways

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C O M M O N O R D E R

(ORDER OF THE COURT WAS MADE BY P.SATHASIVAM, J.)

Since the issue raised in all these writ petitions is one and the same and against the common order of the Central Administrative Tribunal, the same are being disposed of by the following common order.

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2. In the light of the order to be passed here under, it is un-necessary to refer all the factual details as stated by the petitioners and the respondents. All the petitioners approached the Central Administrative Tribunal, Madras Bench seeking the following relief.

(i) to set aside the impugned order of the third respondent in proceedings No.P.524/HQA/Spl.O.A.717 dated 09.06.1995 in so far as it restricts the relief the relief only to the persons who had approached the Tribunal;

(ii) to direct the respondents to take into account the special pay of Rs.35 per month drawn by the applicants for the purpose of fixation of pay on promotion to the grade of Rs.425-700;

(iii) to consequently direct the respondents to refix the pay of the applicants with effect from the date of promotion and further pay all arrears on that basis with effect from 01.09.1985; and

(iv) to pass such further or other orders as may be deemed fit and proper.

3. The Tribunal after considering the decision of the Supreme Court in K.C.Sharma and others Vs. UOI. (AIR 1997-SC 3588) and also the Full Bench decision of the Tribunal in O.A.Nos.315-403/93 dated 16.12.93, which has been affirmed by the subsequent order of the Tribunal in Chairman, Railway Board Vs. C.R.Rangadhamaiah, in Civil Appeal Nos.4174-4182 of 1995 and connected matters, accepted the case of the applicants and rejected the objections raised by the Railway Administration, including plea relating to limitation. At the end, the Tribunal has disposed of the Original Applications by passing the following order.

> "9. Following the above orders, the OAs before us are allowed as under :-
>
> a) The order of the respondents dated 09.06.1995 in so far as it denies the relief to the applicants is quashed.
>
> b) The pay of the applicants shall be refixed on their promotion to the selection grade taking into account the special pay of Rs.35/-
>
> c) Any amount recovered from the applicants as excess payment shall be refunded to the applicants.
>
> d) On refixation of pay and pension, arrears due to the applicants shall be restricted only to the period of one year prior to the date of filing of the respective OAs."

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In so far as the relief granted in para (9) a) b) c), there cannot be any dispute or objection, however, in clause (d), the Tribunal has restricted the arrears due to the applicants only to the period of one year prior to the date of filing of the respective Original Applications. Inasmuch as similar reliefs have been granted in respect of similarly placed other applicants and the Tribunal having followed the earlier orders passed by the Tribunal, as well as the Supreme Court and granted relief even in favour of the applicants, we are of the view that it is not justified in restricting arrears of pay and pension due to the applicants only to the period of one year prior to the date of filing of the Original Applications. It is not in dispute that there is no such restriction in the case of others, who are similarly placed. Inasmuch as, the Tribunal itself has condoned the delay and applied the law laid down by the Supreme Court, as well as the earlier orders of the Tribunal, we hold that the restriction in clause (d) cannot be sustained. The direction in clause (d) of para 9 is set aside and it is made clear that on refixation of pay and pension, the applicants are entitled all arrears due to them from the date of promotion as granted in favour of other applicants. To this extent the writ petitions are allowed. No costs.

4. Considering the age of the petitioners, the respondents are directed to comply with the above directions, within a period of Eight weeks from the date of receipt of a copy of this order.

tsvn

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Chairman
   Union of India
   Railway Board, Rail Bhavan,
   New Delhi.

2. The General Manager
   Southern Railway,
   Park Town,
   Madras - 600 003.

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3. The Financial Adviser and
   Chief Accounts Officer,
   Southern Railway,
   Headquarters Office,
   Park Town, Chennai - 600 003.

4. The Registrar
   Central Administrative Tribunal
   Chennai - 104.

+ 1 cc to Mr.D. Janarthanan, Advocate SR No.46601

+ 1 cc to Mr. M.Sekar, Advocate SR No.46938

+ 1 cc to Mr.R.Parthiban, Advocate SR No.46728

W.P.No.6944 of 2001
to W.P.No.6949 of 2001
W.P.No.15586
and W.P.No.16586 of 2001

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